

REED SMITH LLP
A limited liability partnership formed in the State of Delaware

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Attorneys for Defendant World Savings Bank,
FSB (erroneously sued as "World Savings, Inc.
dba World Savings Bank FSB")

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JUAN CUEVAS,

Plaintiff,

vs.

ATLAS REALTY/FINANCIAL SERVICES,
INCORPORATED, a California corporation, dba
ATLAS REALTY, dba ATLAS FINANCIAL
SERVICES, ALVIN CLAIR SILBERNAGEL,
SAMANTHA TREVINO, WORLD SAVINGS,
INC., dba WORLD SAVINGS BANK, FSB, and
DOES 1 to 100,

Defendants.

Case No. C07 02814 JF

**WORLD SAVINGS BANK, FSB'S NOTICE
OF MOTION AND MOTION TO DISMISS**

Date: December 14, 2007
Time: 9:00 a.m.
Place: Department 3
Compl. Filed: May 30, 2007

Honorable Jeremy Fogel

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on Friday, November 16, 2007, at 9:00 a.m. in Department
3 of the United States District Court for the Northern District of California, located at 280 S. First
Street, San Jose, California, Defendant World Savings Bank, F.S.B. ("World") will and hereby does
move this Court for: 1) an order dismissing Plaintiffs' Second, Sixth, Seventh, Eighth and Ninth
Claims for Relief and/or; 2) striking Plaintiffs' prayers for injunctive relief and punitive damages.

1 Plaintiffs' Second, Sixth, Seventh, Eighth and Ninth Claims for Relief in his First Amended
 2 Complaint are preempted by federal law and also fail to identify facts sufficient to state a cause of
 3 action and should, therefore, be dismissed pursuant to Federal Rule of Civil Procedure 12(b).
 4 Further, Plaintiffs' prayers for injunctive relief and punitive damages should be stricken pursuant to
 5 Federal Rule of Civil Procedure 12(f) because Plaintiffs are not entitled to these remedies as a matter
 6 of law.

7
 8 World's Motion is based on this Notice of Motion, the accompanying Memorandum of
 9 Points and Authorities in Support of World' Motion, World's Request For Judicial Notice and
 10 exhibits attached thereto and such other evidence the Court may choose to consider at the hearing on
 11 Defendant's motion.

12
 13 DATED: October 9, 2007.

14 REED SMITH LLP

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 16 By /s/ Keith D. Yandell
 17 Jack R. Nelson
 18 Keith D. Yandell
 19 Attorneys for Defendant World Savings Bank, FSB
 20 (erroneously sued as "World Savings, Inc. dba
 21 World Savings Bank FSB")
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